

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INTEL CORPORATION,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

Case IPR2018-00226 (Patent 7,124,205 B2)
Case IPR2018-00234 (Patent 8,805,948 B2)

CAVIUM, LLC,
Petitioner,

v.

ALACRITECH, INC.,
Patent Owner.

Case IPR2018-00401 (Patent 7,945,699 B2)¹

¹ This Order applies to each captioned case. The parties are not authorized to use this heading style for any subsequent papers.

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IPR2018-00234 (Patent 8,805,948 B2)
IPR2018-00401 (Patent 7,945,699 B2)

Before STEPHEN C. SIU, DANIEL N. FISHMAN, and
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

ORDER
Authorizing Motion for Additional Discovery
37 C.F.R. § 42.51(b)(2)

1. *Introduction*

A conference call was held on October 2, 2018, between counsel for the respective parties and Judges Boudreau and Siu. Petitioner Intel Corporation (“Intel”) was represented on the call by Garland Stephens, Melissa Hotze, and Anne Capella. Petitioner Cavium, LLC (“Cavium”) was represented by Patrick McPherson, Karineh Khachatourian, and David Xue. Patent Owner Alacritech, Inc. (“Alacritech”) was represented by James Glass, Joseph Paunovich, and Sean Li. The conference call was requested by Alacritech to discuss authorization to file a motion for additional discovery related to the relationship, if any, between each of Intel and Cavium, on the one hand, and Dell, Inc. (“Dell”) and CenturyLink, which Alacritech alleges to be undisclosed real parties in interest, on the other hand.

2. *Discussion*

Pursuant to 37 C.F.R. § 42.51(b)(2), a party may move for additional discovery where the parties fail to agree to the scope of voluntary discovery in an *inter partes* review proceeding.

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As stated during the aforementioned October 2 conference call, we authorize Alacritech to file a motion for additional discovery in each of the captioned cases. More specifically, Alacritech is authorized to file a single, substantively identical motion for additional discovery from Intel in both IPR2018-00226 and IPR2018-00234, given the identity of the Petitioner entity in those cases. Alacritech is also authorized to file a separate motion for additional discovery from Cavium in IPR2018-00401. The motions shall not exceed ten pages in length each, and are due no later than Thursday, October 11, 2018. We direct Alacritech's attention to the requirement of 37 C.F.R. § 42.51(b)(2) that the moving party must show that such additional discovery is in the "interests of justice." We also direct Alacritech's attention to *Garmin International, Inc. v. Cuozzo Speed Technologies LLC*, IPR2012-00001, Paper 26 (PTAB Mar. 5, 2013) (precedential), laying out factors to be considered in connection with a motion for additional discovery. Alacritech shall file its proposed discovery requests as an exhibit in the respective cases. Although such exhibits will not count against the ten-page limit in each case, Alacritech is cautioned that we expect to take into account, in making our determination whether to grant its motions, whether the discovery requests are sufficiently narrowly tailored to result in obtaining relevant, admissible evidence of privity between Intel or Cavium, on the one hand, and Dell or CenturyLink, on the other hand.

Should Alacritech file its motions, we authorize Intel to file substantively identical oppositions in IPR2018-00226 and IPR2018-00234, and we authorize Cavium to file an opposition in IPR2018-00401. The

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oppositions shall not exceed ten pages in length and are due no later than Friday, October 19, 2018.

ORDER

It is

ORDERED that, in each of the captioned *inter partes* review proceedings, Alacritech is authorized to file a motion for additional discovery that shall not exceed ten pages in length, and is due no later than October 11, 2018;

FURTHER ORDERED that any such motions for additional discovery filed in IPR2018-00226 and IPR2018-00234 are to be substantively identical to each other;

FURTHER ORDERED that Alacritech shall file proposed discovery requests as an exhibit in the respective cases, which exhibit will not count against the ten-page limit set forth above;

FURTHER ORDERED that Intel is authorized to file a substantively identical opposition to any such motions filed by Alacritech in IPR2018-00226 and IPR2018-00234, no later than October 19, 2018; and

FURTHER ORDERED that Cavium is authorized to file an opposition to any such motion filed by Alacritech in IPR2018-00401.

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